



6351-01-P

## **COMMODITY FUTURES TRADING COMMISSION**

### **17 CFR Part 32**

### **RIN 3038-AE26**

### **Trade Options**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** On May 7, 2015, the Commodity Futures Trading Commission (“Commission” or “CFTC”) published in the Federal Register a notice of proposed rulemaking (the “Trade Options Proposal”) to amend the limited trade option exemption in part 32 of its regulations. The Commission is extending the comment period for the Trade Options Proposal in light of the Commission’s recent interpretation concerning forward contracts with embedded volumetric optionality.

**DATES:** The comment period for the Trade Options Proposal published on May 7, 2015, at 80 FR 26200, is extended until June 22, 2015.

**ADDRESSES:** You may submit comments, identified by RIN 3038-AE26, by any one of the following methods:

- CFTC web site: <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Comments Online process on the web site.

- Mail: Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail, above.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Please submit your comments using only one of these methods.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to [www.cftc.gov](http://www.cftc.gov). You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the CFTC's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from [www.cftc.gov](http://www.cftc.gov) that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** David N. Pepper, Special Counsel, Division of Market Oversight, at (202) 418-5565 or [dpepper@cftc.gov](mailto:dpepper@cftc.gov); or Elise Pallais,

Counsel, Office of the General Counsel, at (202) 418-5577 or [epallais@cftc.gov](mailto:epallais@cftc.gov);  
Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW,  
Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

On May 7, 2015, the Commission published a proposal to amend the trade option exemption in part 32 of its regulations in the following subject areas: (1) reporting requirements for trade option counterparties that are not swap dealers or major swap participants; (2) recordkeeping requirements for trade option counterparties that are not swap dealers or major swap participants; and (3) certain non-substantive amendments.<sup>1</sup> Generally, these proposed amendments are intended to facilitate use of trade options by commercial market participants to hedge against commercial and physical risks.

On May 18, 2015, the Commission published its final interpretation regarding forward contracts with embedded volumetric optionality.<sup>2</sup> The interpretation identifies when an agreement, contract, or transaction would fall within the forward contract exclusions from the “swap” and “future delivery” definitions in the Commodity Exchange Act (“CEA”), notwithstanding that it allows for variations in the delivery amount (i.e., contains “embedded volumetric optionality”).

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<sup>1</sup> Trade Options, Notice of Proposed Rulemaking, 80 FR 26200 (May 7, 2015).

<sup>2</sup> Forward Contracts with Embedded Volumetric Optionality, 80 FR 28239 (May 18, 2015). In accordance with section 712(d)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the interpretation was issued jointly with the U.S. Securities and Exchange Commission after consultation with the Board of Governors of the Federal Reserve System. Although the interpretation was issued jointly, it is an interpretation solely of the CFTC and does not apply to the exclusion from the swap and security-based swap definitions for security forwards or to the distinction between security forwards and security futures products.

In light of the recent publication of the Commission's interpretation on forward contracts with embedded volumetric optionality, the Commission is extending the comment period for the Trade Options Proposal until June 22, 2015.

Issued in Washington, DC, on May 28, 2015, by the Commission.

Christopher J. Kirkpatrick,  
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

**Appendix to Trade Options Extension of Comment Period – Commission Voting  
Summary**

On this matter, Chairman Massad and Commissioners Wetjen, Bowen, and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

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